THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.10123 of 2007

Date 7-6-2007

Between:
P. Pitchaiah

.....

PETITIONER
AND

The Director of Health,
Koti, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.10123 of 2007

ORDER: (per Smt. T. Meena Kumari,J)

Petitioner filed the present writ petition seeking a writ of Certiorari to set aside the order of the A.P. Administrative Tribunal, Hyderabad in O.A. No. 5475 of 2006, dated 21.3.2007, by declaring it as illegal and arbitrary and violative of Articles 14 and 16 of the Constitution of India and a further declaration declaring that the petitioner is entitled to be continued in the post of Multi Purpose Health Extension Officer (Male).

The brief facts of the case are that the petitioner herein was originally appointed as Multi purpose Health Assistant (Male) in the year 1985. Subsequently, he was promoted as Multi purpose Health Supervisor (Male) in 2004 and on 28.3.2006, he was further promoted as Multi Purpose Health Extension Officer. Thereafter, when one Krishnaiah, who was working as Multi Purpose Health Supervisor (Male), Primary Health Centre and who was senior to the petitioner made a representation on 21.4.2006 to the respondent authorities to consider his case for promotion to the post of Multi Purpose Health Extension Officer under S.C. quota, the respondents basing on the said representation, served a notice on the petitioner on 31.7.2006 calling upon him to show cause as to why he should not be reverted to the post of Multi Purpose Health Supervisor (Male). The petitioner submitted his explanation to the said notice on 16.8.2006. Apprehending that the petitioner would be reverted to the post of Multi Purpose Health Supervisor (Male), the petitioner filed O.A. No.5475 of 2006 before the Tribunal. The Tribunal, by the order

impugned in this writ petition, disposed of the said O.A. with a direction to the Regional Director of Medical and Health Services, Kadapa to take a decision and pass appropriate final orders on the explanation submitted by the petitioner within a period of two weeks from the date of receipt of the said order. It further observed in the said order that since there are eight candidates above the petitioner waiting for promotion, it cannot issue any direction to the respondents to continue the petitioner as Multi Purpose Health Extension Officer (Male). Aggrieved, the petitioner filed the present writ petition.

It is seen from the counter affidavit filed by the respondents before the Tribunal that the respondents did not dispute about considering the claim of the petitioner for promotion during the counselling held on 28.3.2006. It is stated that the petitioner has figured at Sl. No.1023 of the seniority list whereas B. Krishnaah, who is alleged to be the senior has figured at Sl. No.948. Since the claim of the said Krishnaiah was not considered, he made a representation to the respondents, basing on which, the respondents issued show cause notice to the petitioner calling upon him to show cause as to why he should not be reverted from the post of Multi Purpose Health Extension Officer. Further, it is stated that the name of the petitioner figured much below in the seniority list and after considering 8 (eight) M.P.H.S. (Male) from the general category, the turn of the petitioner would come at S.C. 16th roster point. The respondents, therefore, stated that they cannot give any promotion at this stage.

However, at the time of hearing, learned Government Pleader has drawn the attention of this Court to the proceedings dated 28.4.2007 of the District Malaria Officer of Kadapa, whereunder the petitioner was reverted to the post of M.P.H.S. He further submitted that there are vacancies are available in the category of Multi Purpose Health Extension Officer.

Admittedly, the petitioner did not choose to question the show cause notice dated 31.7.2006 and the order of reversion dated 28.4.2007. However, taking into consideration the submission of the learned Government Pleader that there are vacancies in the post of Multi Purpose Health Extension Officer, i.e., in the promotion category, we deem it

appropriate to direct the respondents to consider the case of the petitioner for promotion to the post of Multi purpose Health Extension Officer as per his eligibility. Accordingly, there shall be a direction to the respondents to consider the case of the petitioner for promotion to the post of Multi Purpose Health Extension Officer, if he is eligible.

The writ petition is accordingly disposed of. No costs.

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T. MEENA KUMARI,J

DATE: 7th June, 2007

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G. CHANDRAIAH,J

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